GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Agriculture & Cooperation (H&S) Dept., - Estt - A.P.H.S. - Gazetted Officers – Fixation of notional seniority in the cadre of Assistant Director of Horticulture among others in respect of Sri P.Hanumantha Rao from 30.4.2008 without disturbing the seniority list – Examined - Orders -Issued.

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AGRICULTURE AND COOPERATION (HORTI. & SERI.) DEPARTMENT

G.O.Ms.No.94. Dated : 15.12.2017.
Read the following :-

1) From the APAT order dt.14.2.2017 in O.A.No.60/2016 and 1879 of 2016.
2) From the Commissioner of Horticulture, A.P., Guntur Lr. No.Estt.I(1)47/ 2015, Dated:17-05-2017.
3) From the G.P. for PR&RD, I&CAD, TR&B, Forest, F&P, APAT, Hyderabad Lr.No.CA No.200/2017 in O.A.No.60/2016/SDK/I&CAD, dt.9.6.2017.
4). Hon'ble High Court orders, Dt.24-10-2017 in W.P.M.P.No.26525/2017 in W.P.No.21571/2017.
5) From the Commissioner of Horticulture, A.P., Guntur Lr.No. Estt.I(1)47/ 2015, dt:02-11-2017.

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O R D E R :

In the reference 1st read above the Hon'ble Tribunal have delivered its Judgment containing (61) Pages in O.A. 60/2016 and O.A No.1879/2016 filed by Sri. P. Hanumantha Rao, Dy. Director of Horticulture. The gist of the Hon'ble APAT orders are as follows.

a) To fix the seniority of the applicant and other similarly situated Horticulture Officers in the light of the common order dt.17-02-2004 in OA.5274/2000 and batch as confirmed by the High Court in WP.No.3171/2006 and batch dt.23-07-2008 and also by duly implementing second part of G.O.MS No.66, Agriculture and Cooperation (Horti.) Department dated 18-02-2009.
b) To review and revise 1997-1998 year wise panel of Horticulture Officers duly deleting the ineligible Horticulture Officers in the light of the observations / findings of this Tribunal in the body of this order and to prepare year wise panels from 1998-1999 onwards in respect of Horticulture Officers for promotion to the post of Asst. Director of Horticulture and Dy. Director of Horticulture by implementing second part of GO.MS. No.66, Agriculture and Cooperation (Horti.,) department dated 18-02-2009 by letter and spirit, effect promotions / notional promotions in the cadre of Asst. Director of Horticulture and Dy. Director of Horticulture.
c) To consider the claim of the applicant for promotion to the post of Joint Director and Additional Director of Horticulture with all consequential benefits.

2. In the reference 2nd read above, the Commissioner of Horticulture, A.P., Guntur has reported that, the orders of the Hon'ble Tribunal in O.A Nos.60/2016 & O.A No. 1879/2016, dt.14-02-2017 filed by Sri P. Hanumantha Rao, has been examined in detail and verified in terms of the orders of the APAT and confirmed that, there are no ineligible officers names included in the approved panel of the ADH. Therefore, there is no need to revise the panel for the year of 1997-98.

3. However, the Government have further examined in details and filed W.P.No.21571/17 against the orders of the Hon'ble Tribunal dt.14.02.2017 and filed

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W.P.M.P. 26525/17. The Hon'ble High Court have delivered its order dt.24.10.2017 in the above W.P in which the Hon'ble High Court has opined that the Respondent No.1, i.e., Sri P.Hanumantha Rao, Dy.Director of Horticulture is entitled for fixation of notional seniority in terms of G.O.Ms.No.66, Dt.18-2-2009 without disturbing the inter-se-seniority, if any, in existence. It is also made it clear that while assigning notional seniority to Respondent No.1, i.e., Sri P.Hanumantha Rao, the petitioners shall take into consideration the quota-rota rule i.e., the posts available for promotees vis-à-vis the posts earmarked for direct recruitees.

4. In the reference 5th read above, while explaining the entire case in terms of the rule position of APHS Rules, 1989 as per which –

> "Every third vacancy of Asst.Director of Horticulture in a cycle of three vacancies shall be filled up by direct recruitment and the first and second vacancies by promotion from the post of Horticulture Officer".

5. The Commissioner of Horticulture (COH), Guntur has reported that, as on 1-9-1997 (i.e., starting of the panel year) (45) Asst.Directors of Horticulture belonging to promote quota were working against their substantive sanctioned quota of (35) posts. Subsequently from 1997-98 to 2000-01, (23) Horticulture Officers were promoted as Asst.Director of Horticulture. Thus a total (68) persons were promoted against the total (35) number of substantive posts for promotes. Thus a total (33) surplus Asst.Directors of Horticulture are to be adjusted against the substantive vacancies under promote quota, in future as and when vacancies arises.

6. The Respondent No.1, i.e., Sri P.Hanumantha Rao, Dy.Director of Horticulture was posted against the post of Asst.Director of Horticulture on deputation to District S.C Society, Vizianagaram and he has joined on 5-9-1998.

7. The COH, Guntur has further informed that, the department has worked out year wise vacancies araised from the panel year 1998-99 onwards in the cadre of Asst.Director of Horticulture for considering notional seniority to the Respondent No.1, i.e., Sri P.Hanumantha Rao in the said case as Asst.Director of Horticulture. The excess candidates promoted as Asst.Directors of Horticulture against the direct recruitee quota are to be adjusted against the substantive vacancies meant for promotees. Six (6) Asst.Directors of Horticulture retired / expired before adjustment of substantive vacancies. Therefore these officers are not adjusted in the substantive vacancies in the cadre of Asst.Director of Horticulture while calculating the substantive vacancies. Further while adjusting the candidates, the ROR is not followed as the candidates were already promoted before issuing of ROR Rules in promotions, i.e., from 2003-04 panel year.

8. Further the COH, Guntur has stated that, as per the Hon'ble High Court orders the department has worked out the vacancies as per quota-rota Rule. The 1st Respondent, i.e., Sri P.Hanumantha Rao in W.P.No.21571/2017 is adjusted against the vacancy araised which is meant for promotee quota on 30-04-2008 during the panel year 2007-08. Hence his notional seniority is to be fixed in the cadre of Asst.Director of Horticulture after the direct recruittee Asst.Directors of Horticulture as they joined in the department on 18-8-2007 prior to his date of notional seniority. Hence there will be no change in inter-se-seniority in the cadre of Asst.Director of Horticulture.

9. The COH, Guntur has requested to issue necessary orders duly fixing notional seniority of Respondent No.1, i.e., Sri P.Hanumantha Rao from 30-4-2008 without disturbing the seniority list.

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10. Government after careful examination of the entire matter and after consideration of the recommendation of the Commissioner of Horticulture, A.P., Guntur in terms of the orders of the Hon'ble High Court dt.24.10.2017 in W.P.No.21571/17 hereby fix the notional seniority of Respondent No.1, i.e., Sri P. Hanumantha Rao from 30-4-2008 without disturbing the seniority list.

11. The above orders are subject to the directions / outcome of OAs/WPs/WAs/RPs/CAs etc, if any, pending before Tribunal/Courts etc.

12. The Commissioner of Horticulture, A.P., Guntur is requested to take further necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

CHIRANJIV CHOUDHARY
EX. OFFICIO SECRETARY TO GOVERNMENT(H&S)

To
The Commissioner of Horticulture, A.P., Guntur.
Copy to:
The P.S to Min (Agri)
The P.S to E.O. Secy to Govt., (H&S)
Sf/Sc.

//FORWARDED BY ORDER//

SECTION OFFICER